

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ELK GROVE UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015050344

ORDER DENYING REQUEST FOR
CONTINUANCE

On September 23, 2015, the parties filed a joint request to continue the dates in this matter. This is the second request for a continuance in this matter, which was filed on April 27, 2015. On June 3, 2015, the parties requested, and were granted, a continuance of more than four months because they had entered into an interim agreement. The purpose of that continuance was to allow for independent educational evaluations to be completed and also to allow the parties time to meet to consider the evaluations. The request for continuance filed on September 23, 2015, requests a continuance more than 90 additional days, such that the hearing would begin on February 2, 2016.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) The Office of Administrative Hearings considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Denied. All hearing dates and timelines shall proceed as calendared. Here, the parties have requested a continuance of the hearing dates to February 2016. While OAH is inclined to grant a short continuance, the parties have stipulated to dates that are too far out from the original date the matter was filed. If the matter was moved to February 2016, the decision would not be rendered until almost a year after the case was filed. Therefore, the request to continue is denied without prejudice.

IT IS SO ORDERED.

DATE: September 28, 2015

/s/

MARGARET BROUSSARD

Presiding Administrative Law Judge
Office of Administrative Hearings